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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/825,793

04/16/2004

Addison W. Learned III

9108

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N. Abington, MA 02351

02/26/2007

EXAMINER
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GRAHAM, GARY K

ART UNIT	PAPER NUMBER
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1744

MAIL DATE	DELIVERY MODE
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02/26/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Notice of Abandonment</b>	Application No.	Applicant(s)	
	10/825,793	LEARNED, ADDISON W.	
	Examiner	Art Unit	
	Gary K. Graham	1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 05 July 2006.
  - (a) ☐ A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - (b) ☒ A proposed reply was received on 27 July 2006, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.

(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - (c) ☐ A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
  - (d) ☐ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - (a) ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - (b) ☐ The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.

The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.
  - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - (a) ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:

See Continuation Sheet



Gary K Graham  
Primary Examiner  
Art Unit: 1744

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

Item 7 - Explanation for holding abandonment: Applicant's 27 July 2006 letter was treated as a request for reconsideration. Such did not place the application in condition for allowance and was addressed in the Advisory action mailed 10 August 2006. Applicant's letters of 24 November and 01 December, 2006 are noted, but are not proper responses to the final rejection of 05 July 2006. These letters neither amended the claims nor specifically asked for reconsideration. However, they will be addressed here. As set forth in the rejection and the advisory, Lay discloses the invention as is claimed. Whether it is desirable to use the device of Lay to paint does not impact whether or not it is possible. While it is true that one may not want to paint a garage floor with a toothbrush, all that is required is that the brush would be capable of such action. Lay is simply capable of painting. Nothing prohibits such. Applicant's discussion of handles is noted, however, there is no particular disclosure or claiming of any specific handle. As set forth in the rejection, Lay has a handle. Applicant's request for assistance is noted, however, due to Applicant's basic disclosure and the available art, the Examiner is not able to provide a claim suggestion at this time. All of the structural features disclosed appear to be shown.